

Attorney Docket No. 22644.00

Customer No. 37833

Confirmation No. 6026

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN THE *PATENT* APPLICATION OF:

APPLICANT: DOROTHY L. WRIGHT et al.

APPL. NO. : 10/706,036

**ART UNIT : 3751** 

FILED

: **NOVEMBER 13, 2003** 

EXAMINER: LE, HUYEN D.

TITLED

: DEEP SOAKING TUB AND SHOWER WITH SIDE ENTRY DOOR

MAIL STOP RESPONSE COMMISSIONER FOR PATENTS P.O. BOX 1450 ALEXANDRIA, VA 22313-1450

## RESPONSE TO RESTRICTION REQUIREMENT

Sir:

In the Office Action dated December 29, 2004, the Examiner required restriction under 35 U.S.C. § 121 prior to an examination on the merits of the above-identified application. The separate inventions identified by the Examiner are as follows:

- I. Claims 1-6, drawn to a bathtub with a side entry door.
- II Claims 7-16, drawn to a locking mechanism on a door.

The Examiner states that the inventions of Groups I and II are related as combination and subcombination. In order to establish that the separate inventions of Groups I and II are distinct, the

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Examiner asserts that the combination of Group I does not require the particulars of the subcombination

for patentability, and that the subcombination of Group II has utility in combinations other than that of

Group I.

In compliance with the Examiner's restriction requirement, Applicants provisionally elect with

traverse for further prosecution the invention defined by Claims 1-6 (designated as Group "I").

Notwithstanding the propriety of the restriction requirement for examination purposes, it should

be pointed out that such a requirement is discretionary on the part of the Examiner. Further, it should be

noted that Claims 7-13 depend directly or indirectly from Claim 1, and therefore do not stand in a

combination/subcombination relationship as asserted by the Examiner. Also, the Examiner has failed to

support his assertion that the locking device defined by Claims 14-16 has utility by itself or in other

combinations, and therefore does not meet the criteria for distinctness as set forth in MPEP 806.05(c).

Moreover, it would appear that a search and examination of the entire application can be conducted

without a serious burden on the Office.

Therefore, it is respectfully requested that the Examiner withdraw the restriction requirement and

issue an action on the merits of the claimed embodiments presently in the application. At the very least,

the subject matter of Claims 7-13 should be retained with the Group I invention. Alternatively, should

the Examiner maintain or modify the requirement, Applicants await a complete action on the merits of

the elected subject matter.

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Respectfully submitted,

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